

## **REMARKS**

Upon entry of the present amendment, claims 1, 2, 10-13, 16-17, 40, and 55 are pending. Claims 56, 58 and 59 have been amended to clarify the presence/absence of megakaryocyte stimulating factor gene exons; this amendment is supported by disclosure throughout the specification, e.g., at page 12, lines 4-19; at 18, lines 9-12; page 27, lines 6-9; page 38, lines 8-13, of the specification and Figs. 2A-B.

Claims 11 and 12 have been amended to italicize the claim terms as suggested by the Examiner.

No new matter has been added by this amendment.

### **I. Objections to the Claims**

The Examiner has objected to claims 11 and 12, because the claim terms “in vivo” and “in vitro” were not italicized. In view of the amendment to italicize these claim terms, this objection can now be withdrawn.

### **II. Claim Rejections Under 35 U.S.C. § 102**

Claims 56, 58, and 59 were rejected for anticipation by Turner et al. On page 3, lines 13-16, the Examiner states:

It should be noted that claims 56, 58, and 59 recite the phrase “consisting essentially of,” which is interpreted as “comprising of,” that indicates that the exons other than what is explicitly claimed are also hidden in the claims.

Applicant has now amended the claims to clarify the presence and absence of megakaryocyte stimulating factor gene exons in the megakaryocyte stimulating factor coding sequence of the claims. Amended claims 56, 58, and 59 now require that the polypeptide-encoding construct lacks at least one exon of the human megakaryocyte stimulating factor gene. For example, claim 56 requires a polypeptide encoded by a construct containing a megakaryocyte stimulating factor coding sequence consisting of exons 1, 2, 3, 4, and 6-12 and lacking at least one exon of the human megakaryocyte stimulating factor gene. Claim 58 requires a polypeptide encoded by a construct containing a megakaryocyte stimulating factor

**Applicants:** Jay, Gregory D.  
**U.S.S.N.** 09/556,246

coding sequence consisting of exons 1, 3, and 6-12 and lacking at least one exon of the human megakaryocyte stimulating factor gene. Finally, claim 59 requires a polypeptide encoded by a construct containing a megakaryocyte stimulating factor coding sequence consisting of exons 1, and 6-12 and lacking at least one exon of the human megakaryocyte stimulating factor gene. In view of this amendment, Applicant submits that the claims no longer read on Turner's description of a full-length (12 exons) megakaryocyte stimulating factor gene.

Withdrawal of this rejection is respectfully requested.

**Applicants:** Jay, Gregory D.  
U.S.S.N. 09/556,246

### **CONCLUSION**

Applicant submits that the application is in condition for allowance and such action is respectfully requested. Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



---

Ingrid A. Beattie, Reg. No. 42,306  
Attorney for Applicant  
MINTZ, LEVIN, COHN, FERRIS  
GLOVSKY and POPEO, P.C.  
One Financial Center  
Boston, Massachusetts 02111  
Tel: (617) 542-6000  
Customer No. 30623

TRA 2016826v1